

**MEETING NOTE**  
**Meeting with Women's Groups to Discuss Hate Crime Legislation**  
**10 July 2019**  
**Atlantic Quay**

**In attendance**

**Ministers**

<b>Name</b>	<b>Title</b>
Mr Humza Yousaf (Chair)	Cabinet Secretary for Justice
Ms Christina McKelvie	Minister for Older People and Equalities

**Organisations**

<b>Name</b>	<b>Organisation</b>	<b>Role</b>
Alison Ryan	Stirling Gender Based Violence Partnership	Co-ordinator
[redacted]	Glasgow Violence Against Women Partnership	Co-ordinator
[redacted]	Glasgow Violence Against Women Partnership	Co-ordinator
Nina Munday	Fife Centre for Equalities	Manager
Sandra Lindsay	SACRO	Service Manager (West)
Frances Monaghan	Wise Women	Manager
Anne Robertson Brown	Angus Violence Against Women Partnership (Angus Women's Aid)	Executive Director
Dr Kim Barker	University of Stirling Law School	Lecturer and Author

**Officials**

<b>Name</b>	<b>Division</b>
[redacted]	Connected Communities
[redacted]	Equality Unit
[redacted]	Equality Unit
[redacted]	Equality Unit

Welcome and Introductions

1. The Cabinet Secretary for Justice (CSJ) welcomed the group and explained that the purpose of the meeting was to ascertain a more precise understanding of the representatives' opinions on adding a gender statutory aggravation to the hate crime legislation and to explore their views in regards to developing a standalone offence for misogyny.

2. CSJ added that they had been invited as they indicated support for a gender aggravation within their responses to the consultation. He explained that he has already met with Engender, Rape Crisis, Scottish Women's Aid and Zero Tolerance who opposed the statutory aggravation and instead supported the development of the standalone offence for misogyny.
3. The Minister for Older People and Equalities provided some additional background and expressed that she was looking forward to hearing a variety of views. Specifically she emphasised the importance of ensuring that any new hate crime dovetailed effectively with existing laws such as the Domestic Abuse Act and corresponded beneficially with non-legislative programmes like Equally Safe.

## Discussion

4. The Cabinet Secretary for Justice asked the group to give their thoughts. The following covers the key points made by the representatives from the different organisations:

### Wise Women

- Emphasised that their work was at the frontline of supporting survivors of domestic abuse in contrast to Engender et al whose remit was more strategic.
- Violence against women needs to be included within hate crime law.
- Message needs to be sent that such behaviour is not acceptable.
- Support for the aggravation was based on the belief that it addressed the intent of the offender and the impact on the victim.
- The aggravation should be for 'sex' rather than 'gender' to reflect the specific needs of biological women.
- Conceded the controversial issues surrounding trans-women not being protected by a 'sex' aggravator but that those in this characteristic were already covered by the existing transgender aggravation within hate crime law.
- Believe that the Gender Recognition Act does not reflect the needs of biological women.
- Important to listen to and engage with survivors as a survey suggested that 84% of women were not aware of work done by the SG or what the laws says in regards to abuse.

### Fife Centre for Equalities

- A crime with an aggravation is easier for everyone to understand than a standalone offence.
- Proving an aggravation in court is more straightforward than a standalone offence.
- Against having a standalone offence for misogyny.
- Section 50A (racially aggravated harassment) repeal arguments in line with not having a standalone offence for misogyny.
- Any existing or new hate crime laws should be harmonised with the Equality Act.
- Emphasis must be on the needs of the victim, what they perceive to be hate and a focus on the reasons they feel they were subject to a prejudiced attack.
- Importance of intersectionality e.g. Muslim women.
- Need better definitions for 'sex' and 'gender' and to properly distinguish between the two rather than conflate them e.g. intersex is not chosen and should be within the 'sex' protected characteristic but allow people to identify their own 'gender' (non-binary etc).

- Importance legislation is supported by activity to support reporting. A lot of work required to get victims to report incidents of hate crime. Many victims find going to the Police off-putting, but 3<sup>rd</sup> Party Reporting Centres are not funded and require support.

#### Glasgow Violence Against Women Partnership

- Important to discuss in the context of 'sex' rather than 'gender' and not conflate the two.
- The use of 'sex' as the preferred terminology is not about excluding members of the trans community.
- An aggravation avoids the need for corroborative evidence which would be required in the case of a standalone offence.
- Importance of consistency.
- A standalone offence could create an impression of a hierarchy of prejudice whereas an aggravation would avoid this.
- Police will have to be adequately trained to understand how to recognise what meets the criteria for a gender aggravation and record this appropriately
- Could an offence of rape or sexual assault be further aggravated if certain language was used during the attack – perhaps philosophically problematic?
- Properly name and identify behaviours that are no longer acceptable and use Equally Safe in order to continually achieve positive outcomes.

#### Angus Violence Against Women Partnership

- There is a fear of creating a hierarchy if misogyny is included as a standalone offence.
- Many young women do not understand that they are subject to misogynistic behaviour – importance of awareness raising and ensuring there is adequate protection in law.

#### Stirling Gender Based Violence Partnership

- An aggravation sends a strong message that society will not tolerate criminality based on prejudice.
- Both the aggravation and offence would require accurate definitions for 'gender' and 'misogyny'.
- Whether it be an aggravation or standalone offence that is chosen it must be properly aligned to the Equally Safe strategy.
- Concern that an aggravation could also be used to protect men.
- Make sure young people are not disproportionately affected by hate crime legislation and use education to mitigate this.

#### SACRO

- The word 'gender' can cover all different variations as explained in the consultation response.
- Transgender would be covered by gender and agree with 'gender hostility'.

#### Dr Kim Barker

- If an aggravation is introduced it must be based on 'gender'. Motivation and hostility can only work if the term 'gender' is used.

- Unsure on the definition of misogyny and whether such an offence is workable in practice due to factors such as the varying motivations for the harassment and subjectivity of the victim's perspective. A meaningful and workable definition is therefore required for misogyny.
  - Supportive of a gender aggravation and consideration of working towards an offence for misogyny at a later date.
  - Any legislation introduced must do what it is set out to do as if it doesn't work there will be a very big backlash.
5. During the discussion the Cabinet Secretary for Justice offered some additional information and counter-points:
- an aggravation for 'sex' rather than 'gender' could exclude trans-women i.e. if a trans-woman was attacked because they were perceived to be a biological woman rather than because they were trans.
  - reluctance to repeal Section 50A despite the recommendation from Lord Bracadale due to the vast majority of hate crimes still being based on racial prejudice – believes we can justify taking different approach where it is merited.
  - a gender aggravation in legislation sends out a clear message that this behaviour will not be tolerated, but it is not a panacea.
6. The Minister for Older People and Equalities offered the following:
- the Equality Act also considers 'gender' and that many successful discrimination claims brought forward under this legislation were on the basis of 'gender' rather than 'sex', including the recent equal pay claims in Glasgow City Council.
  - the importance of training judges and police officers around the successful application of an aggravator; and of raising awareness among the public of any changes in the legislation more broadly.
7. The Cabinet Secretary for Justice concluded the discussion by thanking the group for their time and contributions.